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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,469	09/25/2003	Motoshi Okugawa	108421-00080	4843

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EXAMINER

MATZEK, MATTHEW D

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/669,469	Applicant(s) OKUGAWA ET AL.	
	Examiner Matthew D. Matzek	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6,8,9,11-13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,8,9,11-13 and 15-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The amendment dated 3/3/2006 has been fully considered and entered into the Record. Claims 3, 4, 7, 10 and 14 have been canceled. Claims 1, 2, 5, 6, 8, 9, 11-13 and 15-19 are currently active. Amended claim 1 contains no new matter. The previously applied prior art rejections have been withdrawn as the applied art failed to teach the new pulp composition limitation. The previously applied 112 2nd paragraph rejections have been withdrawn due to amendment.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 2, 5, 6, 8, 9, 11 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al. (JP 10001166) in view of Nygard (EP 0 908 557).

a. Saito et al. disclose a paper reticulated material that is formed by twisting one or more belt formed paper flaps to form strings and forming a net by knitting the twisted strings in a cross-knitting manner (Abstract). Figure 3 displays a knotless net. The applied invention has a basis weight of 15 to 50 g/m² [0014]. Claims 16-19 are rejected as the applied article is directed for use as buffer material against light to heavy impacts [0008]. The strip-shaped paper is made of natural fibers, or natural fibers mixed with synthetic fibers [0031]. The twisted strings of the paper web may be reinforced with wet strength additives [0027]. Saito et al. fail to teach the use of softwood kraft pulp of 70% or more in the pulp furnish.

- b. Nygard et al. teach the creation of a paper web comprising 20-70% mechanical pulp and 80-30% bleached chemical softwood pulp (Abstract). The use of softwood reinforces the pulp and improves the strength properties of the paper [0005].
- c. Since Saito et al. and Nygard et al. are from the same field of endeavor (i.e. paper webs), the purpose disclosed by Nygard et al. would have been recognized in the pertinent art of Saito et al.
- d. It would have been obvious at the time the invention was made to a person ordinary skill in the art to modify the paper reticulated material of Saito et al. with the pulp furnish of Nygard et al. The skilled artisan would have been motivated by the desire to impart the final paper product with “impeccable strength properties” [0016].
- e. Although Saito et al. and Nygard et al. do not explicitly teach the claimed feature of an aspect ratio of tensile strength of the base paper in the range from 5 to 15 as measured by Japanese Industrial Standard P 8113, it is reasonable to presume that said property is inherent to the combined product of Saito et al. and Nygard et al. Support for said presumption is found in the use of like materials (i.e. a common pulp furnish). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of an aspect ratio of tensile strength of the base paper in the range from 5 to 15 as measured by Japanese Industrial Standard P 8113 would obviously have been present one the Saito et al. and Nygard et al. product is provided. Reliance upon inherency is not improper even though rejection is based on Section 103 instead of Section 102. *In re Skoner, et al.* (CCPA) 186 USPQ 80.

Art Unit: 1771

3. Claims 12-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito et al. (JP 10001166) in view of Nygard et al. (EP 0 908 557) as applied to claims 8, 9 and 11 above, and further in view of Phan et al. (US 6,136,146) or Kearney et al. (US 4,225,382). The inventions of Saito et al. and Nygard et al. are silent as to the use of a specific wet strength-enhancing agent.

a. Phan et al. disclose an air-dried paper web with at least two different regions of different densities and basis weights (Abstract). Examples 1 and 2 utilize softwood kraft pulp within the furnish. The furnish may further comprise a variety of additives including wet strength binder materials such as polyamide-epichlorohydrin resins (col. 9, line 62 – col. 10, line 5).

b. Kearney et al. disclose an improved process to produce a novel tissue (Abstract). Examples 1-4 teach the use of softwood kraft pulp in the furnish. In efforts to increase the wet strength of the pulp a modified polyacrylamide resin is added to the neat furnish in Example 1 (col. 13, lines 20-25).

c. Since Saito et al., Phan et al. and Kearney et al. are from the same field of endeavor (i.e. paper webs), the purpose disclosed by Phan et al. and Kearney et al. would have been recognized in the pertinent art of Saito et al.

d. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the article of Saito et al. to have included the wet strength additive of Phan et al. or Kearney et al. The skilled artisan would have been motivated by the desire to use a specific wet strength additive for a paper-based web.

Art Unit: 1771

e. Although Saito et al., Nygard et al., Phan et al. and Kearney et al. do not explicitly teach the claimed feature of an aspect ratio of tensile strength of the base paper in the range from 5 to 15 as measured by Japanese Industrial Standard P 8113, it is reasonable to presume that said property is inherent to the combined product of Saito et al., Nygard et al. and Phan et al. or Kearney et al. Support for said presumption is found in the use of like materials (i.e. a common pulp furnish). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of an aspect ratio of tensile strength of the base paper in the range from 5 to 15 as measured by Japanese Industrial Standard P 8113 would obviously have been present one the Saito et al., Nygard et al. and Phan et al. or Kearney et al. product is provided. Reliance upon inherency is not improper even though rejection is based on Section 103 instead of Section 102. *In re Skoner, et al.* (CCPA) 186 USPQ 80.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1771

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423.


The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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NORCA TORRES
PRIMARY EXAMINER